

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

JIM HARRIS, JR.,

Plaintiff,

v.

CORIZON, LLC, et al.,

Defendants.

No. 1:15-CV-26 SNLJ

MEMORANDUM AND ORDER

This closed case is before the Court on a letter from self-represented plaintiff Jim Harris, Jr. seeking an Order from the Court directing the Missouri Department of Corrections to stop taking funds from his prison account to pay filing fees for this matter, and to reimburse him for funds already deducted. ECF No. 129 at 2. The Court construes this letter as a motion for reimbursement, and for the reasons discussed below, this motion will be denied.

Case Background

Plaintiff filed his complaint *pro se* in this matter on February 2, 2015. ECF No. 1. After plaintiff filed an amended complaint on a court-provided form (ECF No. 5), the Court granted plaintiff's motion for appointment of counsel and appointed him Pro Bono Counsel in this matter. ECF No. 9. On March 11, 2015, the Court granted plaintiff's motion for leave to commence this action without prepayment of the required filing fee and accessed an initial partial filing fee amount of \$5.03. ECF No. 12. In that Order the Court stated:

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account; or (2) the

average monthly balance in the prisoner's account for the prior six-month period. *See* 28 U.S.C. § 1915(b)(1). After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. *See* 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid. *Id.*

ECF No. 12 at 1.

After receiving notice that the parties had settled (ECF No. 115), on March 1, 2018, the Court granted plaintiff's stipulation of dismissal (ECF No. 121) and dismissed this matter "with prejudice," stating that "[a]ll parties are to bear their respective costs." ECF No. 122. After the dismissal, plaintiff filed a *pro se* motion for injunctive relief (ECF No. 126), which the Court denied on September 28, 2018. ECF No. 127.

Motion Argument

Plaintiff now seeks an Order directing that funds stop being withdrawn from his prison account to pay the filing fee in this matter, and that funds already deducted be returned to him. ECF No. 129 at 2. In relation to this matter, plaintiff states in his motion:

In the case of 1:15-CV-00026-CEJ. This is the same of 1:13-CV-00147-SNLJ, which was voluntarily dismissed. First there was never an order from the district court to order Plaintiff to pay partial or initial filing fee.

Finally, Section 1915 of Title 28 of the USC states; "If you win your suit the court will order the defendants to pay you back for these expenses."

I won my case, so why is this court trying to make me pay a filing fee that was never ordered by the district court?

Id.

Discussion

Under the Prisoner Litigation Reform Act ("PLRA"), "if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner *shall* be required to pay the full amount of a

filing fee.” 28 U.S.C. § 1915(b)(1) (emphasis added). “[N]othing allows the court to stop the collection of the filing fee once [it] authorize[s] a prisoner to proceed in forma pauperis [under 28 U.S.C. § 1915]. *Copley v. Henderson*, 980 F.Supp. 322, 323 (D. Neb. 1997). “Thus, prisoners should understand that from the moment we allow them to proceed in forma pauperis, they owe the United States of America the full filing fee.” *Id.* Because the Court granted plaintiff’s application to proceed in forma pauperis in this case, the PLRA requires that plaintiff pay the full filing fee.

As detailed in the Order issued by the Court granting in forma pauperis status to plaintiff, 28 U.S.C. § 1915(b)(2) sets forth the requirements for prisoner installment payments under the PLRA:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account. The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

In this action, plaintiff was assessed an initial partial filing fee of \$5.03 on March 11, 2015. ECF No. 12. This amount was received by the Court on April 9, 2015. An additional payment towards the filing fee in the amount of \$5.00 was received by the Court on June 1, 2020.

This case was not voluntarily dismissed, nor did plaintiff “win” this case, as he states in his motion. This case was settled and dismissed by the Court with an Order that all parties shall bear their own costs. Also, the Court did issue an Order in this matter directing plaintiff to pay an initial partial filing fee amount of \$5.03, and that amount was received by the Court on April 9, 2015. ECF No. 12. Furthermore, plaintiff has not submitted a prison account statement or

made any argument demonstrating that he lacks the funds to pay the filing fees in this instance.

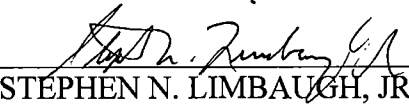
For all these reasons, the plaintiff's motion will be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for an Order from the Court directing the Missouri Department of Corrections to stop taking funds from his prison account to pay filing fees for this matter, and to reimburse him for funds already deducted [ECF No. 129] is **DENIED.**

IT IS FURTHER ORDERED that an appeal of this Order would not be taken in good faith.

Dated this 23rd day of June, 2020.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE